

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1701V

Filed: November 6, 2019

UNPUBLISHED

KELLI S. CAMPBELL,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*Edward H. Walter, Jubelirer Pass & Intrieri, P.C., Pittsburgh, PA, for petitioner.*

*Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

**Corcoran**, Chief Special Master:

On November 2, 2018, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered Guillain-Barré Syndrome (“GBS”) as a result of an influenza (“flu”) vaccination administered on October 31, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 24, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for GBS. On November 5, 2019, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$140,036.40 (consisting of \$130,000.00 for pain and suffering and \$10,036.40 for past loss of

<sup>1</sup> I intend to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

earnings). Proffer at 1-2. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$140,036.40 (consisting of \$130,000.00 for pain and suffering and \$10,036.40 for past loss of earnings) in the form of a check payable to petitioner, Kelli S. Campbell.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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No. 18-1701V ECF

Chief Special Master Corcoran

**PROFFER ON AWARD OF COMPENSATION<sup>1</sup>**

**I. Procedural History**

On November 2, 2018, Kellie S. Campbell (“petitioner”) filed a petition seeking compensation (“Petition” or “Pet.”) under the National Childhood Vaccine Injury Act of 1986, **42 U.S.C. §§ 300aa-1** to -34, *as amended* (“Vaccine Act” or “Act”), for an injury petitioner allegedly sustained as a result of an influenza (“flu”) vaccination administered on October 31, 2017. Petition at 1. Petitioner alleges that she suffered Guillain-Barré Syndrome (“GBS”), which is an injury listed on the Vaccine Injury Table (“Table”) for the flu vaccine. *Id.* On September 24, 2019, respondent filed his Vaccine Rule 4(c) report, conceding a Table injury for GBS. On September 24, 2019, Special Master Dorsey issued a ruling on entitlement, finding that petitioner was entitled to compensation for GBS.

**II. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded

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<sup>1</sup> This Proffer does not include attorneys’ fees and costs, which the parties intend to address after the Damages Decision is issued.

a lump sum of **\$140,036.40** for all damages, consisting of \$130,000.00 for pain and suffering and \$10,036.40 for past loss of earnings. This amount represents all elements of compensation to which petitioner would be entitled under **42 U.S.C. § 300aa-15(a)**. Petitioner agrees.

**III. Form of the Award**

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$140,036.40**, in the form of a check payable to petitioner.<sup>2</sup> Petitioner agrees.

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

C. SALVATORE D'ALESSIO  
Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

GABRIELLE M. FIELDING  
Assistant Director  
Torts Branch, Civil Division

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<sup>2</sup> Should petitioner die prior to entry of judgment, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering, and the parties reserve the right to move the Court for appropriate relief.

/s/Darryl R. Wishard

DARRYL R. WISHARD

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Dated: November 5, 2019